## UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

JAMES A. SCHOLL,

Petitioner,

VS.

D.W. NEVEN, et al.,

Respondents.

Case No. 2:15-cv-01657-APG-CWH

**ORDER** 

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the petition. When filing a habeas action, petitioner must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*. Due to the lack of an *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application with all required attachments. It does not appear from the papers presented that a dismissal without prejudice would result in a promptly-filed new petition being untimely. In this regard, petitioner at all times remains responsible for calculating the running of the limitations period as applied to his case and properly commencing a timely-filed habeas corpus action.

IT THEREFORE IS ORDERED that this action is DISMISSED without prejudice to the filing of a new petition in a new action.

1	IT IS FURTHER ORDERED that the Clerk of the Court shall send petitioner two copies
2	of an in forma pauperis application form for a prisoner, one copy of the instructions for the same,
3	two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the
4	same.
5	IT IS FURTHER ORDERED that petitioner may file a new petition in a new action, but he
6	may not file further documents in this action.
7	IT IS FURTHER ORDERED that all pending motions are DENIED.
8	IT IS FURTHER ORDERED that a certificate of appealability is DENIED. Reasonable
9	jurists would not find the dismissal of the improperly-commenced action without prejudice to be
10	debatable or wrong.
11	IT IS FURTHER ORDERED that the Clerk of the Court shall enter judgment accordingly.
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13	DATED this 31 day of August, 2015.
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15	UNITED STATES DISTRICT JUDGE
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